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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 150121066-5497-01]**

**RIN 0648-BE81**

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quotas**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments; notice of public hearing.

**SUMMARY:** NMFS proposes to modify the baseline annual U.S. quota and subquotas for Atlantic bluefin tuna (BFT). NMFS also proposes minor modifications to the regulatory text regarding Atlantic tuna purse seine auxiliary vessel activity under the "transfer at sea" provisions. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before *[insert date 30 calendar days after the date of publication in the FEDERAL REGISTER]*. NMFS will host an operator-assisted public hearing conference call and webinar on July 1, 2015, from 2 to 4 p.m.

EDT, providing an opportunity for individuals from all geographic areas to participate.

See **SUPPLEMENTARY INFORMATION** for further details.

**ADDRESSES:** You may submit comments on this document, identified by “NOAA-NMFS-2015-0011,” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0011](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0011), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Sarah McLaughlin, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The public hearing conference call information is phone number 1-800-779-5379; participant passcode 1594994. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go

to: <https://noaaevents2.webex.com/noaaevents2/onstage/g.php?d=990480432&t=a>. Enter your name, e-mail address, and password “webtuna” (without typing the quotation marks) and click the “JOIN” button. Participants who have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

Supporting documents, including the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis, may be downloaded from the HMS website at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). These documents also are available by contacting Sarah McLaughlin at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as “Atlantic tunas”) are managed under the dual authority of the Magnuson-Stevens Act and ATCA. As an active member of ICCAT, the United States implements binding ICCAT recommendations. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate to carry out ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS.

## **Background**

Since 1982, ICCAT has recommended a Total Allowable Catch (TAC) of western Atlantic BFT, and since 1991, ICCAT has recommended specific limits (quotas) for the United States and other Contracting Parties.

In 2006, NMFS published a final rule in the **Federal Register** implementing the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which consolidated management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP (71 FR 58058, October 2, 2006). Among other things, the 2006 Consolidated HMS FMP maintained an allocation scheme, established in the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP), for dividing the baseline annual U.S. BFT quota among several domestic quota categories. NMFS amended the BFT allocations, effective January 1, 2015, in the recently published Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014).

Regulations implemented under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota. Section 635.27 currently codifies the annual U.S. baseline BFT quota first recommended by ICCAT in 2010 and divides it among the various domestic fishing categories consistent with the process established in Amendment 7. Adjustment of the annual U.S. baseline BFT quota is necessary to implement the new quota adopted in a 2014 ICCAT recommendation for western BFT, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act, including rebuilding stocks and ending overfishing. NMFS also is proposing minor modifications to regulatory text to clarify that while transfer at sea is prohibited, an auxiliary vessel (i.e., a skiff) may conduct limited

assistance activities for its associated purse seine vessel in catch operations for BFT. The text modification reflects current practice but is necessary to clarify that "transfer at sea" is prohibited consistent with ICCAT Recommendation 14-05 (Recommendation by ICCAT Amending the Supplemental Recommendation by ICCAT Concerning the Western Atlantic BFT Rebuilding Program) and its intended application. This text modification is administrative, reflects current practice, and would have no environmental impacts or effects on current fishing operations.

NMFS has prepared an Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), which present and analyze anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this proposed rule. The list of alternatives and their analyses are provided in the draft EA/RIR/IRFA and are not repeated here in their entirety. A copy of the draft EA/RIR/IRFA prepared for this proposed rule is available from NMFS (see ADDRESSES).

#### *2014 ICCAT Recommendation*

At its November 2014 meeting, ICCAT adopted a western Atlantic BFT TAC of 2,000 mt annually for 2015 and 2016 after considering the results of the 2014 BFT stock assessment and following negotiations among Contracting Parties (ICCAT Recommendation 14-05). This TAC, which is an increase from the 1,750-mt TAC that has applied annually since 2011, is consistent with scientific advice from the 2014 stock assessment, which indicated that annual catches of less than 2,250 mt would have a 50-percent probability of allowing the spawning stock biomass to be at or above its 2013 level by 2019 under either recruitment scenario, and that annual catches of 2,000 mt or

less would continue to allow stock growth under both the low and high recruitment scenarios for the remainder of the rebuilding program. All TAC, quota, and weight information discussed in this notice are whole weight amounts.

For 2015 and 2016, the ICCAT Recommendation also makes the following allocations from the western BFT 2,000-mt TAC for bycatch related to directed longline fisheries in the Northeast Distant gear restricted area (NED): 15 mt for Canada and 25 mt for the United States. Following subtraction of these allocations from the TAC, the recommendation allocates the remainder to the United States (54.02 percent), Canada (22.32 percent) Japan (17.64 percent), Mexico (5.56 percent), UK (0.23 percent), and France (0.23 percent). For the United States, 54.02 percent of the remaining 1,960 mt is 1,058.79 mt annually for 2015 and 2016. This represents an increase of approximately 135 mt (approximately 14 percent) from the U.S. baseline BFT quota that applied annually for 2011 through 2014. Thus, the annual total U.S. quota, including the 25 mt to account for bycatch related to pelagic longline fisheries in the NED, is 1,083.79 mt.

As a method for limiting fishing mortality on juvenile BFT, ICCAT continued to recommend a tolerance limit on the annual harvest of BFT measuring less than 115 cm (straight fork length) to no more than 10 percent by weight of a Contracting Party's total BFT quota over the 2015 and 2016 fishing periods. The United States implements this provision by limiting the harvest of school BFT (measuring 27 to less than 47 inches (68.5 to less than 119 cm curved fork length)) as appropriate to not exceed the 10-percent limit over the two-year period.

#### *Domestic Allocations and Quotas*

The 1999 FMP and its implementing regulations established baseline percentage quota shares for the domestic fishing categories. These percentage shares were based on allocation procedures that NMFS developed over several years, based on historical share, fleet size, effort, and landings by category, and stock assessment data collection needs. The baseline percentage quota shares established in the 1999 FMP were continued in the 2006 Consolidated HMS FMP. Amendment 7 to the 2006 Consolidated HMS FMP modified the quota calculation process as follows: First, 68 mt is subtracted from the baseline annual U.S. BFT quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent; Angling—19.7 percent; Harpoon—3.9 percent; Purse Seine—18.6 percent; Longline—8.1 percent (plus the 68-mt initial allocation); Trap—0.1 percent; and Reserve—2.5 percent.

The table below shows the proposed quotas and subquotas that result from applying this process. These quotas would be codified at § 635.27(a) and would remain in effect until changed (for instance, if any new ICCAT western BFT TAC recommendation is adopted). Because ICCAT adopted TACs for 2015 and 2016 in Recommendation 14-05, NMFS currently anticipates that these annual base quotas would be in effect through 2016.

**Table 1. Proposed annual Atlantic bluefin tuna (BFT) quotas (in metric tons)**

Category	Annual Baseline Quotas and Subquotas			
	Quota	Subquotas		
General	466.7			
		January-March <sup>1</sup>	24.7	
		June-August	233.3	
		September	123.7	
		October-November	60.7	
		December	24.3	
Harpoon	38.6			
Longline	148.3			
Trap	1.0			
Purse Seine	184.3 <sup>2</sup>			
Angling	195.2			
		School	108.4	
		Reserve		20.1
		North of 39°18' N. lat.		41.7
		South of 39°18' N. lat.		46.6
		Large School/Small Medium	82.3	
		North of 39°18' N. lat.		38.9
		South of 39°18' N. lat.		43.5
		Trophy	4.5	
		North of 39°18' N. lat.		1.5
		South of 39°18' N. lat.		1.5
		Gulf of Mexico		1.5
Reserve	24.8 <sup>2</sup>			
<b>U.S. Baseline BFT Quota</b>	<b>1,058.9<sup>3</sup></b>			
<b>Total U.S. Quota, including 25 mt for NED (Longline)</b>	<b>1,083.9<sup>3</sup></b>			

<sup>1</sup> January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached or projected to be reached, or through March 31, whichever comes first.

<sup>2</sup> Baseline amount shown. Does not reflect the annual adjustment process (for the Purse Seine and Reserve category quotas) adopted in Amendment 7, discussed below.

<sup>3</sup> Totals subject to rounding error.



Also as a result of the Amendment 7 process and consistent with the regulations, NMFS at the beginning of the year calculated the quota available to individual Atlantic Tunas Purse Seine category fishery participants for 2015 based on BFT catch (landings and dead discards) by those fishery participants in 2014 and then reallocated the remaining 87.4 mt of available Purse Seine category quota to the Reserve category for the 2015 fishing year. This process resulted in revised Purse Seine and Reserve category quotas of 71.7 mt and 108.8 mt, respectively (80 FR 7547, February 11, 2015). If NMFS finalizes the U.S. baseline BFT quota as proposed here, NMFS will again calculate the amounts of quota available to individual Purse Seine fishery participants for 2015 applying the baseline Purse Seine category quota as finalized (and adjust the Reserve category quota as appropriate). Based on the proposed U.S. baseline BFT quota, the Purse Seine and Reserve category quotas would be further adjusted to 82.9 mt (an 11.2-mt increase) and 126.2 mt (a 17.4-mt decrease), respectively. Consistent with § 635.27(a)(4)(v)(C), NMFS would notify Atlantic Tunas Purse Seine fishery participants of the adjusted amount of quota available for their use in 2015 through the Individual Bluefin Quota electronic system established under § 635.15 and in writing and will publish notice of the adjusted Purse Seine and Reserve category quotas for 2015 in the **Federal Register** notice announcing the final rule.

Amendment 7 also changed the way that NMFS adjusts the U.S. annual quota for any previous year's underharvest. Rather than publishing proposed and final quota specifications annually to adjust the quota for the underharvest as NMFS has in the past, NMFS will automatically augment the Reserve category quota to the extent that underharvest from the previous year is available. Such adjustment will be consistent with

ICCAT limits and will be calculated when complete BFT catch information for the prior year is available and finalized. NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota pursuant to regulatory determination criteria described at 50 CFR 635.27(a)(8), or for scientific research.

Although preliminary 2014 landings and dead discard estimates indicate an underharvest of approximately 218 mt (using the 160.6-mt 2013 dead discard estimate as a proxy), the amount the United States may carry forward to 2015 is limited to 94.9 mt by ICCAT recommendation. The final 2013 estimate and a preliminary 2014 estimate will be available in June 2015, and NMFS will announce any adjustment to the 2015 Reserve category quota based on the amount of 2014 underharvest.

#### *Atlantic Tunas Purse Seine Auxiliary Vessel Activity*

Currently, HMS regulations specify that an owner or operator of a vessel for which an Atlantic Tunas Purse Seine category permit has been issued "may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which an Atlantic Tunas Purse Seine category permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits." NMFS is proposing minor modifications to this regulatory text to clarify that this text was not meant to allow "transfer at sea," which clearly is prohibited by ICCAT Recommendation 14-05, but only to allow the routine, limited operations of an auxiliary vessel (i.e., a skiff) that is assisting its associated purse seine vessel in catch operations for BFT. Such activities are not the type of activity meant to be prohibited by that Recommendation. This clarification would

be administrative, reflect current practice, and would have no environmental impacts or effects on current fishing operations.

#### *Request for Comments*

NMFS solicits comments on this proposed rule through [*insert date 30 calendar days after the date of publication in the **FEDERAL REGISTER***]. See instructions in **ADDRESSES** section.

#### *Public Hearing Conference Call*

NMFS will hold a public hearing conference call and webinar on July 1, 2015, from 2 p.m. to 4 p.m. EDT, to allow for an additional opportunity for interested members of the public from all geographic areas to submit verbal comments on the proposed quota rule.

The public is reminded that NMFS expects participants at public hearings and on conference calls to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting.

### *Classification*

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the 2006 Consolidated HMS FMP objectives, the Magnuson-Stevens Act, and other applicable law, to analyze the impacts of the alternatives for implementing and allocating the ICCAT-recommended U.S. quota for 2015 and 2016; and to clarify the purse seine transfer at sea regulations for Atlantic tunas.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objective of this proposed rulemaking is to implement ICCAT recommendations.

Section 603(b)(3) requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has

established size criteria for all major industry sectors in the United States, including fish harvesters. This proposed rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. In general, the HMS Charter/Headboat category permit holders can be regarded as small entities for RFA purposes. HMS Angling (recreational) category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. The SBA has established size criteria for all major industry sectors in the United States including fish harvesters (79 FR 33647; June 12, 2014). A business involved in fish harvesting is classified as a “small business” if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts (revenue) not in excess of \$20.5 million for all of its affiliated operations worldwide (NAICS code 114111, finfish fishing). NAICS is the North American Industry Classification System, a standard system used by business and government to classify business establishments into industries, according to their economic activity. The United States government developed NAICS to collect, analyze, and publish data about the economy. In addition, the SBA has defined a small charter/party boat entity (NAICS code 487210, for-hire) as one with average annual receipts (revenue) of less than \$7.5 million.

As described in the recently published final rule to implement Amendment 7 to the 2006 Consolidated HMS FMP (79 FR 71510, December 2, 2014), the average annual gross revenue per active pelagic longline vessel was estimated to be \$187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated \$31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel during

that time period was less than \$1.4 million, well below the SBA size threshold of \$20.5 million in combined annual receipts. Therefore, NMFS considers all Atlantic Tunas Longline category permit holders to be small entities. NMFS is unaware of any other Atlantic Tunas category permit holders that potentially could earn more than \$20.5 million in revenue annually. NMFS is also unaware of any charter/headboat businesses that could exceed the \$7.5 million thresholds for those small entities. HMS Angling category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. Therefore, NMFS considers all Atlantic Tunas permit holders and HMS Charter/Headboat permit holders subject to this action to be small entities.

This action would apply to all participants in the Atlantic BFT fishery, i.e., to the over 27,000 vessels that held an Atlantic HMS Charter/Headboat, Atlantic HMS Angling, or an Atlantic Tunas permit as of October 2014. This proposed rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. It is unknown what portion of HMS Charter/Headboat permit holders actively participate in the BFT fishery or fishing services for recreational anglers. As summarized in the 2014 SAFE Report for Atlantic HMS, there were 6,792 commercial Atlantic tunas or Atlantic HMS permits in 2014, as follows: 2,782 in the Atlantic Tunas General category; 14 in the Atlantic Tunas Harpoon category; 5 in the Atlantic Tunas Purse Seine category; 246 in the Atlantic Tunas Longline category; 3 in the Atlantic Tunas Trap category; and 3,742 in the HMS Charter/Headboat category. In the process of developing the IBQ regulations implemented in the Amendment 7 final rule, NMFS deemed 135 Longline category

vessels as eligible for IBQ shares (i.e., 135 vessels reported a set in the HMS logbook between 2006 and 2012 and had valid Atlantic Tunas Longline category permits on a vessel as of August 21, 2013, the publication date of the Amendment 7 proposed rule). This constitutes the best available information regarding the universe of permits and permit holders recently analyzed. No impacts are expected to occur from the clarification of the transfer at sea prohibition regulatory text.

NMFS has determined that this action would not likely directly affect any small government jurisdictions defined under the RFA.

Under section 603(b)(4) of the Regulatory Flexibility Act, agencies are required to describe any new reporting, record-keeping, and other compliance requirements. There are no new reporting or recordkeeping requirements in any of the alternatives considered for this action.

Under section 603(b)(5) of the Regulatory Flexibility Act, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed rule. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act (ESA), the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed rule has also been determined not to duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

Under section 603(c) of the Regulatory Flexibility Act, agencies are required to describe any alternatives to the proposed rule which accomplish the stated objectives and

which minimize any significant economic impacts. These alternatives and their impacts are discussed below. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c) (1)-(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, ATCA, and the ESA, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, no alternatives are discussed that fall under the first and fourth categories described above. Amendment 7 implemented criteria for determining the availability of quota for Purse Seine fishery category participants and IBQs for the Longline category. Both of these and the eligibility criteria for IBQs and access to the Cape Hatteras GRA for the Longline category can be considered individual performance standards. NMFS has not yet found a practical means of applying individual performance standards to the other quota categories while, concurrently, complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category.

NMFS has estimated the average impact that establishing the increased baseline annual U.S. BFT quota for all domestic fishing categories would have on each quota



category and the vessels within those categories. As mentioned above, the 2014 ICCAT recommendation increased the annual U.S. baseline BFT quota for each of 2015 and 2016 to 1,058.79 mt and provides 25 mt annually for incidental catch of BFT related to directed longline fisheries in the NED. The baseline annual subquotas would be adjusted consistent with the process established in Amendment 7 (79 FR 71510, December 2, 2014), and these amounts would be codified.

To calculate the average ex-vessel revenues under the proposed action, NMFS first estimated potential category-wide revenues. The most recent ex-vessel average price per pound information for each commercial quota category is used to estimate potential ex-vessel gross revenues under the proposed subquotas (i.e., 2014 prices for the General, Harpoon, Purse Seine, and Longline/Trap categories). For comparison, in 2014, gross revenues were approximately \$7.8 million, broken out by category as follows: General--\$5.9 million, Harpoon--\$544,778, Purse Seine--\$391,607, Longline--\$953,055, and Trap--\$0. The proposed baseline subquotas could result in estimated gross revenues of \$11 million, if finalized and fully utilized, broken out by category as follows: General category: \$6.8 million (466.7 mt \* \$6.60/lb); Harpoon category: \$611,851 (38.6 mt \* \$7.19/lb); Purse Seine category: \$1.9 million (184.3 mt \* \$ 4.77/lb); Longline category: \$1.7 million (148.3 mt \* \$5.22/lb); and Trap category: \$11,508 (1.0 mt \* \$ 5.22/lb). This rulemaking proposes to implement the recently adopted ICCAT-recommended U.S. quota and applies the allocations for each quota category as recently amended in the implementing regulations for Amendment 7 to the 2006 Consolidated HMS FMP. This action would be consistent with ATCA, under which the Secretary promulgates regulations as necessary and appropriate to carry out ICCAT recommendations.

No affected entities would be expected to experience negative, direct economic impacts as a result of this action. On the contrary, each of the quota categories would increase relative to the baseline quotas that applied in 2011 through 2014 and the quotas finalized in Amendment 7. To the extent that Purse Seine fishery participants and IBQ participants could receive additional quota as a result of Amendment 7-implemented allocation formulas being applied to increases in available Purse Seine and Longline category quota, those participants would receive varying increases, which would result in direct benefits from either increased fishing opportunities or quota leasing.

To estimate potential average ex-vessel revenues that could result from this action, NMFS divides the potential annual gross revenues for the General, Harpoon, Purse Seine, and Trap category by the number of permit holders. For the Longline category, NMFS divides the potential annual gross revenues by the number of active vessels as defined in Amendment 7. This is an appropriate approach for BFT fisheries, in particular because available landings data (weight and ex-vessel value of the fish in price-per-pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data (particularly from non-Longline participants) do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (e.g., the cost of gas, bait, ice, etc.), so net revenue for each participant cannot be calculated. As a result, NMFS analyzes the average impact of the proposed alternatives among all participants in each category.

Success rates vary widely across participants in each category (due to extent of vessel effort and availability of commercial-sized BFT to participants where they fish) but for the sake of estimating potential revenues per vessel, category-wide revenues can

be divided by the number of permitted vessels in each category. For the Longline fishery, the number of vessels deemed eligible for IBQ shares is used, and actual revenues would depend, in part, on each vessel's IBQ in 2015. Although HMS Charter/Headboat vessels may fish commercially under the General category quota and retention limits, because it is unknown what portion of HMS Charter/Headboat permit holders actively participate in the BFT fishery, NMFS is estimating potential General category ex-vessel revenue changes using the number of General category vessels only.

Estimated potential 2015 revenues on a per vessel basis, considering the number of permit holders listed above and the proposed subquotas, could be \$2,441 for the General category; \$43,703 for the Harpoon category; \$387,618 for the Purse Seine category; \$12,642 for the Longline category, using the 135 vessels eligible for IBQ shares; and \$3,836 for the Trap category. Thus, all of the entities affected by this rule are considered to be small entities for the purposes of the RFA.

Consistent with Amendment 7 regulations, NMFS calculated the quota available to Purse Seine fishery participants for 2015 and then reallocated the remaining 87.4 mt of available Purse Seine category quota to the Reserve category (80 FR 7547, February 11, 2015). NMFS will further adjust those amounts if the U.S. baseline BFT quota in this proposed rule is finalized. The analyses in this IRFA are limited to the proposed baseline subquotas.

Because the directed commercial categories have underharvested their subquotas in recent years, the potential increases in ex-vessel revenues above may overestimate the probable economic impacts to those categories relative to recent conditions. Additionally,

there has been substantial interannual variability in ex-vessel revenues per category in recent years due to recent changes in BFT availability and other factors.

The proposed modifications to the regulatory text concerning Atlantic tunas purse seine transfer at sea are intended to clarify the prohibition on transfer at sea. They apply to the five Purse Seine fishery participants only and are not expected to have significant economic impacts as they are administrative in nature, reflect current practice, and would not result in changes to Atlantic tunas purse seine operations.

**List of Subjects in 50 CFR Part 635**

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 8, 2015.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

## **PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES**

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.27, paragraphs (a) introductory text, (a)(1)(i), (a)(2), (a)(3), (a)(4)(i), (a)(5), (a)(6), (a)(7)(i), and (a)(7)(ii) are revised to read as follows:

### **§ 635.27 Quotas.**

(a) *Bluefin tuna*. Consistent with ICCAT recommendations, and with paragraph (a)(10)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. bluefin tuna quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. bluefin tuna quota will be allocated among the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories, as described in this section. Bluefin tuna quotas are specified in whole weight. The baseline annual U.S. bluefin tuna quota is 1,058.79 mt, not including an additional annual 25-mt allocation provided in paragraph (a)(3) of this section. The bluefin quota for the quota categories is calculated through the following process. First, 68 mt is subtracted from the baseline annual U.S. bluefin tuna quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent (466.7 mt); Angling—19.7 percent (195.2 mt), which includes the school bluefin tuna held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon—3.9 percent (38.6 mt); Purse Seine—18.6 percent

(184.3 mt); Longline—8.1 percent (80.3 mt) plus the 68-mt allocation (i.e., 148.3 mt total not including the 25-mt allocation from paragraph (a)(3)); Trap—0.1 percent (1.0 mt); and Reserve—2.5 percent (24.8 mt). NMFS may make inseason and annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section, including quota adjustments as a result of the annual reallocation of Purse Seine quota described under paragraph (a)(4)(v) of this section.

(1) \* \* \*

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). Pursuant to paragraph (a) of this section, the amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold under the General category quota is 466.7 mt, and is apportioned as follows, unless modified as described under paragraph (a)(1)(ii) of this section:

(A) January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached, or projected to be reached under § 635.28(a)(1), or through March 31, whichever comes first—5.3 percent (24.7 mt);

(B) June 1 through August 31—50 percent (233.3 mt);

(C) September 1 through September 30—26.5 percent (123.7 mt);

(D) October 1 through November 30—13 percent (60.7 mt); and

(E) December 1 through December 31—5.2 percent (24.3 mt).

\* \* \* \* \*

(2) *Angling category quota.* In accordance with the framework procedures of the Consolidated HMS FMP, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. In accordance with paragraph (a) of this section, the total amount of bluefin tuna that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 195.2 mt. No more than 2.3 percent (4.5 mt) of the annual Angling category quota may be large medium or giant bluefin tuna. In addition, over each two-consecutive-year period (starting with 2015-2016), no more than 10 percent of the annual U.S. bluefin tuna quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school bluefin tuna (i.e., 108.4 mt). The Angling category quota includes the amount of school bluefin tuna held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for bluefin tuna are further subdivided as follows:

(i) After adjustment for the school bluefin tuna quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (46.6 mt) of the school bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat. The remaining school bluefin tuna Angling category quota (41.7 mt) may be caught, retained, possessed or landed north of 39°18' N. lat.

(ii) An amount equal to 52.8 percent (43.5 mt) of the large school/small medium bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat. The remaining large school/small medium bluefin tuna Angling category quota (38.9 mt) may be caught, retained, possessed or landed north of 39°18' N. lat.

(iii) One third (1.5 mt) of the large medium and giant bluefin tuna Angling

category quota may be caught retained, possessed, or landed, in each of the three following geographic areas: 1) North of 39°18' N. lat.; 2) south of 39°18' N. lat., and outside of the Gulf of Mexico; and 3) in the Gulf of Mexico. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(3) *Longline category quota.* Pursuant to paragraph (a) of this section, the total amount of large medium and giant bluefin tuna that may be caught, discarded dead, or retained, possessed, or landed by vessels that possess Atlantic Tunas Longline category permits is 148.3 mt. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area, and subject to the restrictions under § 635.15(b)(8).

(4) \* \* \*

(i) *Baseline Purse Seine quota.* Pursuant to paragraph (a) of this section, the baseline amount of large medium and giant bluefin tuna that may be caught, retained, possessed, or landed by vessels that possess Atlantic Tunas Purse Seine category permits is 184.3 mt, unless adjusted as a result of inseason and/or annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section; or adjusted (prior to allocation to individual participants) based on the previous year's catch as described under paragraph (a)(4)(v) of this section. Annually, NMFS will make a determination when the Purse Seine fishery will start, based on variations in seasonal distribution, abundance or migration patterns of bluefin tuna, cumulative and projected landings in other commercial fishing categories, the potential for gear conflicts on the fishing grounds, or market impacts due to oversupply. NMFS will start the bluefin tuna purse seine season between



June 1 and August 15, by filing an action with the Office of the Federal Register, and notifying the public. The Purse Seine category fishery closes on December 31 of each year.

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(5) *Harpoon category quota.* The total amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 38.6 mt. The Harpoon category fishery commences on June 1 of each year, and closes on November 15 of each year.

(6) *Trap category quota.* The total amount of large medium and giant bluefin tuna that may be caught, retained, possessed, or landed by vessels that possess Trap category Atlantic Tunas permits is 1.0 mt.

(7) \* \* \*

(i) The total amount of bluefin tuna that is held in reserve for inseason or annual adjustments and research using quota or subquotas is 24.8 mt, which may be augmented by allowable underharvest from the previous year, or annual reallocation of Purse Seine category quota as described under paragraph (a)(4)(v) of this section. Consistent with paragraphs (a)(8) through (10) of this section, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota.

(ii) The total amount of school bluefin tuna that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent (20.1 mt) of the total school bluefin tuna Angling category quota as described under paragraph (a)(2) of this section. This amount is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion

of the school bluefin tuna Angling category quota held in reserve for inseason or annual adjustments to the Angling category.

\* \* \* \* \*

3. In § 635.29, paragraph (c) is revised to read as follows:

**§ 635.29 Transfer at sea and transshipment.**

\* \* \* \* \*

(c) An owner or operator of a vessel for which an Atlantic Tunas Purse Seine category permit has been issued under §635.4 may use an auxiliary vessel associated with the permitted vessel (i.e., a skiff) to assist in routine purse seine fishery operations, provided that the vessel has not been issued an Atlantic Tunas or HMS vessel permit and functions only in an auxiliary capacity during routine purse seine operations. The auxiliary vessel may transfer large medium and giant Atlantic BFT to its associated purse seine vessel during routine purse seine operations, provided that the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

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